



General Assembly

February Session, 2008

***Raised Bill No. 363***

LCO No. 2000

\* SB00363PS\_JUD030508 \*

Referred to Committee on Public Safety and Security

Introduced by:  
(PS )

***AN ACT CREATING THE OFFENSE OF USING AN INTERACTIVE  
COMPUTER SERVICE TO DISPLAY PORNOGRAPHY TO A MINOR.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-193 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 The following definitions are applicable to this section, [and]  
4 sections 53a-194 to 53a-210, inclusive, and section 2 of this act:

5 (1) Any material or performance is "obscene" if, (A) taken as a  
6 whole, it predominantly appeals to the prurient interest, (B) it depicts  
7 or describes in a patently offensive way a prohibited sexual act, and  
8 (C) taken as a whole, it lacks serious literary, artistic, educational,  
9 political or scientific value. Predominant appeal shall be judged with  
10 reference to ordinary adults unless it appears from the character of the  
11 material or performance or the circumstances of its dissemination to be  
12 designed for some other specially susceptible audience. Whether a  
13 material or performance is obscene shall be judged by ordinary adults  
14 applying contemporary community standards. In applying  
15 contemporary community standards, the state of Connecticut is

16 deemed to be the community.

17 (2) Material or a performance is "obscene as to minors" if it depicts a  
18 prohibited sexual act and, taken as a whole, it is harmful to minors. For  
19 purposes of this subdivision: (A) "Minor" means any person less than  
20 seventeen years old as used in section 53a-196 and section 2 of this act  
21 and less than sixteen years old as used in sections 53a-196a of the 2008  
22 supplement to the general statutes and 53a-196b, and (B) "harmful to  
23 minors" means that quality of any description or representation, in  
24 whatever form, of a prohibited sexual act, when (i) it predominantly  
25 appeals to the prurient, shameful or morbid interest of minors, (ii) it is  
26 patently offensive to prevailing standards in the adult community as a  
27 whole with respect to what is suitable material for minors, and (iii)  
28 taken as a whole, it lacks serious literary, artistic, educational, political  
29 or scientific value for minors.

30 (3) "Prohibited sexual act" means erotic fondling, nude performance,  
31 sexual excitement, sado-masochistic abuse, masturbation or sexual  
32 intercourse.

33 (4) "Nude performance" means the showing of the human male or  
34 female genitals, pubic area or buttocks with less than a fully opaque  
35 covering, or the showing of the female breast with less than a fully  
36 opaque covering of any portion thereof below the top of the nipple, or  
37 the depiction of covered male genitals in a discernibly turgid state in  
38 any play, motion picture, dance or other exhibition performed before  
39 an audience.

40 (5) "Erotic fondling" means touching a person's clothed or unclothed  
41 genitals, pubic area, buttocks, or if such person is a female, breast.

42 (6) "Sexual excitement" means the condition of human male or  
43 female genitals when in a state of sexual stimulation or arousal.

44 (7) "Sado-masochistic abuse" means flagellation or torture by or  
45 upon a person clad in undergarments, a mask or bizarre costume, or  
46 the condition of being fettered, bound or otherwise physically

47 restrained on the part of one so clothed.

48 (8) "Masturbation" means the real or simulated touching, rubbing or  
49 otherwise stimulating a person's own clothed or unclothed genitals,  
50 pubic area, buttocks, or, if the person is female, breast, either by  
51 manual manipulation or with an artificial instrument.

52 (9) "Sexual intercourse" means intercourse, real or simulated,  
53 whether genital-genital, oral-genital, anal-genital or oral-anal, whether  
54 between persons of the same or opposite sex or between a human and  
55 an animal, or with an artificial genital.

56 (10) "Material" means anything tangible which is capable of being  
57 used or adapted to arouse prurient, shameful or morbid interest,  
58 whether through the medium of reading, observation, sound or in any  
59 other manner. Undeveloped photographs, molds, printing plates, and  
60 the like, may be deemed obscene notwithstanding that processing or  
61 other acts may be required to make the obscenity patent or to  
62 disseminate it.

63 (11) "Performance" means any play, motion picture, dance or other  
64 exhibition performed before an audience.

65 (12) "Promote" means to manufacture, issue, sell, give, provide,  
66 lend, mail, deliver, transfer, transmit, publish, distribute, circulate,  
67 disseminate, present, exhibit, advertise, produce, direct or participate  
68 in.

69 (13) "Child pornography" means any visual depiction including any  
70 photograph, film, videotape, picture or computer-generated image or  
71 picture, whether made or produced by electronic, mechanical or other  
72 means, of sexually explicit conduct, where the production of such  
73 visual depiction involves the use of a person under sixteen years of age  
74 engaging in sexually explicit conduct, provided whether the subject of  
75 a visual depiction was a person under sixteen years of age at the time  
76 the visual depiction was created is a question to be decided by the trier  
77 of fact.

78 (14) "Sexually explicit conduct" means actual or simulated (A)  
 79 sexual intercourse, including genital-genital, oral-genital, anal-genital  
 80 or oral-anal physical contact, whether between persons of the same or  
 81 opposite sex, or with an artificial genital, (B) bestiality, (C)  
 82 masturbation, (D) sadistic or masochistic abuse, or (E) lascivious  
 83 exhibition of the genitals or pubic area of any person.

84 (15) "Visual depiction" includes undeveloped film and videotape  
 85 and data, as defined in subdivision (8) of section 53a-250, that is  
 86 capable of conversion into a visual image and includes encrypted data.

87 Sec. 2. (NEW) (*Effective October 1, 2008*) (a) A person is guilty of  
 88 using an interactive computer service to display obscenity to minors  
 89 when such person uses an interactive computer service to knowingly  
 90 promote to a minor any material or performance that is obscene as to  
 91 minors.

92 (b) For purposes of this section, (1) "person" means an individual  
 93 who is seventeen years of age or older, (2) "interactive computer  
 94 service" means any information service, system or access software  
 95 provider that provides or enables computer access by multiple users to  
 96 a computer server, including a service or system that provides access  
 97 to the Internet and such systems operated or services offered by  
 98 libraries or educational institutions, and (3) "knowingly" means having  
 99 general knowledge of or reason to know or a belief or ground for belief  
 100 that warrants further inspection or inquiry as to (A) the character and  
 101 content of any material or performance that is reasonably susceptible  
 102 of examination by such person, and (B) the age of the minor.

103 (c) Using an interactive computer service to display obscenity to  
 104 minors is a class A misdemeanor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	53a-193
Sec. 2	October 1, 2008	New section

***PS***

*Joint Favorable C/R*

JUD